

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chairman, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the July 19, 2006  
Board of Review Meeting

**Date:** July 25, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, July 19, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, July 26, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Yarbrough, Executive Secretary  
Absent: Mr. Serico, Member

2. Following a motion by Mr. Sieber and seconded by Ms. Calderone, the minutes of the July 12, 2005 meeting were approved

3. Old Business

(a) 110, 957

Mr. Maddow presented this case that involved a claimant who was employed by an employer #1 for a period of three weeks until March 19, 2005 and left work because he was dissatisfied with the hours he was required to work. The claimant also worked for two other employers for short periods subsequent to March 19, 2005. A claim for unemployment benefits was filed as of September 25, 2005. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a) and liable for refund. The Board noted that the claimant only

worked for employer #1 for a short period of time. As a result the Board voted to modify the Appeal Tribunal, holding the claimant disqualified under N.J.S.A. 43:21-5(c) and not liable for refund as the disqualification elapsed prior to the date of claim. The Board also voted to remand the matter of the claimant's separation from the other employers to the Deputy. Mr. Maddow will prepare the decision.

#### 4. New Business

##### (a) 48,248 & 48,250

Ms. Abrunzo and Mr. Gitter described these cases that involved claimants who were laid off as part of a mass layoff and received severance pay. The claimants also filed claims for unemployment benefits and received benefits. The claimants were later reinstated retroactively to the date of layoff as part of a settlement agreement between the employer and labor union. The claimants also received back pay awards. However, the employer made deductions from the back pay award for the severance pay received by the claimants as well as for taxes and dues the claimants would normally incur, and also for wages the claimants earned working for another employer subsequent to the layoff. Some of the unemployment benefits the claimants received were offset by the back pay award. However, the award was insufficient to offset the total sum of benefits received by the claimants. The Appeal Tribunal had held the claimants liable to refund any benefits under N.J.S.A. 43:21-5(b) as the claimants were reinstated with back pay. The Board noted that the Smalls court case is applicable in the matter and the claimants are not liable for refund. The matter was tabled for further research in preparation of a decision.

##### (b) 111, 496

As described by Mr. Gitter, this case involved a claimant who was involved in a motor vehicle accident when he was the driver and his passenger died in the accident. The claimant was charged with "Vehicular Homicide." The claimant did not recall the details of the accident. A claim for disability benefits during unemployment was filed as of February 6, 2005. The Appeal Tribunal had held the claimant ineligible for disability benefits during unemployment under N.J.S.A. 43:21-4(f) (C). The Board noted that the case is based on hearsay and the record is lacking regarding the specific facts of the case. As a result, the Board voted to remand the case for additional testimony from the claimant and Deputy. Mr. Gitter will prepare the remand.

##### (c) 110,061 & 100,837

As presented by Ms. Futterman, these cases involved a claimant who was employed as an adjunct professor for educational institutions during various periods from 2001 through 2005. The claimant was offered work for subsequent academic years during that period. The Appeal Tribunal, in docket number 110, 061, had held the claimant ineligible for benefits from

December 12, 2001 through May 6, 2006 under N.J.S.A. 43:21-4(g)(1), liable for refund for various periods for the weeks ending December 29, 2001 through August 27, 2005, and ineligible from December 25, 2005 through May 6, 2006 under N.J.S.A. 4(g)(1) in docket number 100,837. The Board noted that the claimant is not liable for refund of benefits for the weeks ending December 29, 2001 through January 19, 2002 as he was not notified before four years elapsed, in accordance with N.J.S.A. 43:21-16(d)(1). Also, the claimant is only ineligible from December 25, 2005 through January 7, 2006 as he did not claim benefits for later periods. After discussion, the Board voted to modify the decisions. Ms. Futterman will prepare the decisions.

(e) 91,740

This matter was tabled for further research

## 5. Public Portion

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Ms. Calderone seconded the motion.

SUBMITTED FOR APPROVAL:

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Gerald Yarbrough  
Executive Secretary

GY:gs